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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,601	10/09/2003	Ian James Clubb	1160215/0509834	3269

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FROST BROWN TODD LLC
201 E. Fifth Street
Cincinnati, OH 45202-4182

EXAMINER

WHIPPLE, BRIAN P

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2452

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/682,601	Applicant(s) CLUBB ET AL.	
	Examiner BRIAN P. WHIPPLE	Art Unit 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application |
| 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/10</u> . | 6) ☐ Other: _____ |

DETAILED ACTION

1. Claims 32-43 are pending in this application and presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/6/10 has been entered.

Response to Arguments

3. Applicant's arguments filed 7/6/10 have been fully considered but they are not persuasive.
4. As to claims 32, 36, 39, and 43, the applicant has amended the claims to indicate the logical partitions are associated with different subsets of consumer identifiers. However, Romero discloses "the partitions... may be dedicated (e.g., to a corporate department, for a particular purpose, etc.)" ([0021], ln. 21-23) and "the partition profile... may include a department ID" ([0035], ln. 8-9). Therefore, the logical partitions of Romero may be

identified by subsets of consumers, such as different departments of a company. The combination of Romero's subsets of consumers with the partition relocation of Willie (Col. 5, ln. 67 – Col. 6, ln. 7) would therefore result in the relevant language of claim 32.

5. Applicant's remaining arguments with respect to claims 32-43 have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero et al. (Romero), U.S. Publication No. 2002/0129127 A1, in view of Willie et al. (Willie), U.S. Patent No. 6,052,724, and further in view of Kouloheris et al. (Kouloheris), U.S. Patent No. 5,915,094.

8. As to claim 32, Romero discloses a work management computer system (Abstract, ln. 1-7; Fig. 1) comprising:

a) a pool of physical datastores (Fig. 2; [0027], ln. 1-2; each server includes memory, which may be interpreted as a physical datastore within the physical server), associated with a set of logical datastore partitions ([0020], ln. 1-4; a partition is a logical datastore of a physical datastore, so similarly, the logical datastore may be interpreted as within the logical server); and

b) a pool of physical servers (Fig. 2; [0027], ln. 1-2), associated with a set of logical server partitions ([0020], ln. 1-4);

wherein a consumer is associated with a logical datastore partition and with a logical server partition based on a consumer identifier ([0021], ln. 21-23; [0035], ln. 8-9);

wherein a distributor, comprising a computer programmed to perform as a router ([0022]), receives a work request comprising a consumer identifier ([0021], ln. 21-23; [0023], ln. 4-11; [0035], ln. 8-9; [0036], ln. 23-32);

wherein said distributor determines which specific logical datastore partition and which specific logical server partition said request is associated with ([0021], ln. 21-23; [0023], ln. 4-11; [0035], ln. 8-9; [0036], ln. 23-32);

wherein said distributor further determines a specific physical server wherein said specific logical server partition resides (Abstract, ln. 1-7; Fig. 1; Fig. 2; [0037]);

wherein said distributor further determines a specific physical datastore wherein said specific logical datastore partition resides (Abstract, ln. 1-7; Fig. 1; Fig. 2; [0037]; as discussed above, each server includes memory, which may be interpreted as a physical datastore within the physical server and the system must identify memory locations in order to properly execute; similarly, the logical partitions or datastores are identified within the governing logical server);

logical server partitions which are associated with a different subset of consumers identifiers residing ([0021], ln. 21-23; [0035], ln. 8-9); and

logical datastore partitions which are associated with a different subset of consumer identifiers ([0021], ln. 21-23; [0035], ln. 8-9; as discussed above, each server includes memory, which may be interpreted as a physical datastore within the physical server and the system must identify memory locations in order to properly execute; similarly, the logical partitions or datastores are identified within the governing logical server).

Romero is silent on [determining a specific physical server] after determining which specific logical server partition said request is associated with;

[determining a specific physical datastore] after determining which specific logical datastore partition said request is associated with;

wherein said work management system is designed to permit said specific logical server partition to be moved to a different physical server independent of any other logical server partitions residing on said specific physical server; and

wherein said work management system is designed to permit said specific logical datastore partition to be moved to a different physical datastore independent of any other logical datastore partitions residing on said specific physical datastore.

However, Willie discloses wherein said work management system is designed to permit said specific logical server partition to be moved to a different physical server independent of any other logical server partitions residing on said specific physical server (Col. 5, ln. 67 – Col. 6, ln. 7); and

wherein said work management system is designed to permit said specific logical datastore partition to be moved to a different physical datastore independent of any other logical datastore partitions residing on said specific physical datastore (Col. 5, ln. 67 – Col. 6, ln. 7, as discussed above, each server includes memory, which may be interpreted as a physical datastore within the physical server and the system must identify memory locations in order to properly execute; similarly, the logical partitions or datastores are identified within the governing logical server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Romero in the aforementioned manner as taught by

Willie in order to move partitions to physical servers that most heavily use them or to separate heavily used partitions out to multiple servers to improve performance (Willie: Col. 5, ln. 67 – Col. 6, ln. 7).

Romero and Willie are silent on [determining a specific physical server] after determining which specific logical server partition said request is associated with; and [determining a specific physical datastore] after determining which specific logical datastore partition said request is associated with.

However, Kouloheris discloses [determining a specific physical server] after determining which specific logical server partition said request is associated with (Abstract, ln. 1-3; Col. 17, ln. 66 – Col. 18, ln. 10);

[determining a specific physical datastore] after determining which specific logical datastore partition said request is associated with (Abstract, ln. 1-3; Col. 17, ln. 66 – Col. 18, ln. 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Romero and Willie in the aforementioned manner as taught by Kouloheris in order to determine the corresponding physical entity that a request should be directed to after determining the logical entity with which the physical entity is associated.

9. As to claim 33, Romero, Willie, and Kouloheris disclose the invention substantially as in parent claim 32, wherein said consumer comprises a set of members assigned to a specific residential account (Romero: [0002], ln. 6-8; a residential account may be a specific department, the term residence alone does not imply a family home as was indicated in a previous set of claims, as a private residence is different from the term residence alone).

10. As to claim 34, Romero, Willie, and Kouloheris disclose the invention substantially as in parent claim 32, wherein a subset of said logical server partitions are configured with a set of parameters relating to a service level agreement so that said subset processes a work request received by it according to said service level agreement (Romero: [0017], ln. 18-22).

11. As to claims 35 and 41-42, the claims are rejected for reasons similar to claim 34 above.

12. As to claims 36, 39, and 43, the claims are rejected for reasons similar to claim 32 above.

13. As to claims 37 and 40, the claims are rejected for reasons similar to claim 33 above.

14. As to claim 38, Romero, Willie, and Kouloheris disclose the invention substantially as in parent claim 36, wherein said system is designed to permit each of said logical datastore partitions to be upgraded individually (Romero: [0008]).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the Notice of References Cited (PTO-892).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (8:30 AM to 5:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian P. Whipple
/B. P. W./
Examiner, Art Unit 2452
8/20/10

/THU NGUYEN/
Supervisory Patent Examiner, Art Unit 2452